APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,607	12/27/2000	William Williams	CSCO-96941	1311

7590   05/19/2005

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EXAMINER
NGUYEN, CINDY

ART UNIT	PAPER NUMBER
2161	

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/752,607	WILLIAMS, WILLIAM
	Examiner	**Art Unit**	
	Cindy Nguyen	2171	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>02/28/05</u> .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-24</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-24</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>27 December 2000</u> is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☒ The proposed drawing correction filed on <u>10 February 2003</u> is: a)☒ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a)☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)	4)☐ Interview Summary (PTO-413) Paper No(s). _____ .	
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)	5)☐ Notice of Informal Patent Application (PTO-152)	
3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6)☐ Other:	

DETAILED ACTION

This is in response to communication filed 02/28/05.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new

ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim1-7, 12-15, 20-222 are rejected under 35 U.S.C. 112, first paragraph, as

failing to comply with the written description requirement. The claim(s) contains subject

matter which was not described in the specification in such a way as to reasonably

convey to one skilled in the relevant art that the inventor(s), at the time the application

was filed, had possession of the claimed invention.

Claims 1, 12 and 20 contains subject matter "first transmission rate" and

"second transmission rate" which were not described in the specification in such a way

as to reasonably convey to one skilled in the relevant art that the inventor, at the time

the application was filed, had possession of the claimed invention.

Claims 2-7, 13-15, 21 and 22 depended on claims 1, 12 and 20 above

respectively, therefore they are rejected.

1.   *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1-3, 7, 12-16 and 20 - 22 rejected under 35 U.S.C. 103(a) as being

unpatentable over Schutzman et al. (US 6505216) (Schutzman) in view of Britton

et al. (US 5613060) (Britton).

Regarding claims 1, 12, 14 and 20, Schutzman discloses: a system and method and a

compute-

readable medium and an apparatus of archiving a database, comprising the steps of:

storing a plurality of archive logs[1] comprising a plurality of transactions on an

operational database (112, fig. 1 and col. 11, lines 25-35, Schutzman);

transmitting a plurality of asynchronous streams to a backup database[2] (col. 11, lines 25-

35, Schutzman), wherein the asynchronous streams correspond to a plurality of the archive logs

(col. 10, lines 53-63, Schutzman);

wherein the plurality of asynchronous streams correspond to a plurality of archive logs

(one stream for data portion, col. 11, lines 26-34, Schutzman), and wherein the plurality of

asynchronous streams are transmitted simultaneously (col. 11, lines 26-50, Schutzman);

However, Schutzman didn't disclose: Wherein a first asynchronous stream of said

plurality of asynchronous streams is transmitted at a first transmission rate and a second

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[1] Examiner interpreted the data portions as archive logs.
[2] The system concurrent transfer of the different data portions in to the backup storage device.

asynchronous stream is transmitted at a second transmission rate and updating the backup

database with the plurality of transactions. On the other hand, Britton discloses: Wherein a first

asynchronous stream of said plurality of asynchronous streams is transmitted at a first

transmission rate and a second asynchronous stream is transmitted at a second transmission rate

(col. 3, lines 65 to col. 4, lines 14 and col. 52, lines 22-32, Britton) and updating the backup

database with the plurality of transactions (col. 54, lines 43-53, Britton). Thus, at the time

invention was made, it would have been obvious to a person of ordinary skill in the art to include

the steps the first and second asynchronous stream are transmitted at a first and second

transmission rate and updating the backup database in the system of Schutzman as taught by

Britton. The motivation being to enable the system provide a process for resynchronizing a

commit procedure for protected resources and conversations while avoiding extensive delays in

the operation of an application program that initiated the commit procedure.

In addition, Schutzman/Britton discloses: a memory for storing instructions on how data

is to be transferred from the operational database to the backup database (col. 13, lines 15-20,

Schutzman).

Regarding claims 2, 15 and 21, all the limitations of these claims have been noted in the

rejection of claims 1, 14 and 20, respectively. In addition, Schutzman/Britton discloses: wherein

the plurality of asynchronous streams are transmitted simultaneously (col. 11, lines 26-50,

Schutzman).

Regarding claim 4, all the limitations of this claim have been noted in the rejection of

claim 1. in addition, Schutzman/Britton discloses: further comprising the step of transmitting a

predetermined number of streams in parallel, wherein the number is set by a user in a config file

(col. 15, lines 33-48, Schutzman).

Regarding claim 6, all the limitations of this claim have been noted in the rejection of

claim 1. In addition, Schutzman/Britton disclose: further comprising the step of running

streaming rsynchs for copying data from the operational database to the backup database (col.

11, lines 26-50, , Schutzman).

Regarding claim 7, all the limitations of this claim have been noted in the rejection of

claim 1. In addition, Schutzman/Britton discloses: further comprising the step of constructing an

array of the plurality of archive logs which are to be transferred from the operational database to

the backup database (col. col. 11, lines 53-63, Schutzman).

Regarding claims 3, 13,16 and 22, all the limitations of these claims have been noted in

the rejection of claims 1, 12, 14 and 21, respectively. In addition, Schutzman/Britton didn't

disclose: further comprising the steps of: comparing a plurality of files corresponding to the

backup database to a plurality of files of the operational database to determine whether there are

any corrupt or missing files (col. 60, lines 10-43, Britton).

In addition, Schutzman/Britton /Beardsley discloses: automatically transferring files from

the operational database to the backup database which have been corrupted or deleted (col. 51,

49-55, Britton)

3.   **Claims 8-10, 11, 17-19, 23 and 24 are rejected under 35 U.S.C. 103(a) as being**

unpatentable over Ohran (U.S 6085298) in view of Britton et al. (US 5613060) (Britton).

Regarding claims 8, 17 and 23, Ohran discloses: A method and an apparatus of

performing automatic recoveries on an archived database, comprising the steps of:

comparing files residing on An operational database to files residing on a backup

database (col. 29, lines 26-40, Ohran);

determining whether there are any missing files by checking for files which exist on the

operational database and which do not exist on the backup database (col. 30, lines 15-38, Ohran);

recopying files from the operational database over to the backup database which are

missing (col. 30, lines 30-35, Ohran).

determining whether there are any corrupted files by checking for files which have a

different size on the operational database as compared to corresponding file residing on the

backup device (col. 30, lines 30-35, Ohran);

recopying files from the operational database to the backup database which have become

corrupted (col. 30, lines 30-35, Ohran);

However, Ohran didn't disclose: wherein the automatic recovery process is run by a

program automatically in the background without requiring initiation and is run independent of a

complete system backup. On the other hand, Britton discloses: wherein the automatic recovery

process is run by a program automatically in the background without requiring initiation and is

run independent of a complete system backup (col. 49, lines 50-62 and col. 52, lines 22-52,

Britton). Thus, at the time invention was made, it would have been obvious to a person of

ordinary skill in the art to include automatic recovery process is run by a program automatically

in the background without requiring initiation in the system of Ohran as taught by Britton. The

motivation being to enable the system provide a process for resynchronizing a commit

procedure for protected resources and conversations while avoiding extensive delays in the

operation of an application program that initiated the commit procedure.

Regarding claims 9, 18 and 24, all the limitations of these claims have been noted in the

rejection of claims 8, 17 and 23, respectively. In addition, Ohran/Britton discloses: further

comprising the step of transferring a plurality of files simultaneously from the host device to the

backup device (col. 3, lines 65 to col. 4, lines 14, Britton).

Regarding claim 11, all the limitations of this claim have been noted in the rejection of

claim 8. in addition, Ohran/ Britton discloses: wherein the comparing step comprises the step of

performing a rolling checksum (col. 52, lines 34-66, Britton).

Regarding claims 10 and 19, all the limitations of these claims have been noted in the

rejection of claims 9 and 17, respectively. In addition, Ohran/Britton discloses: wherein the

plurality of files are streamed according to an rsync command (col.49, lines 50-61, Britton).

4.   **Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schutzman et al. (US**

6505216) (Schutzman) in view of Britton et al. (US 5555371) (Britton) and further in view of

Nielsen (5812398).

Regarding claim 5, all the limitations of this claim have been noted in the rejection of

claim 1. However, Schutzman didn't disclose: wherein the transmitting step runs in cron. On the

other hand, Nielsen discloses: wherein the transmitting step runs in cron (col. 7, line 14 to col. 8,

lines 11, Nielsen). Thus, at the time invention was made, it would have been obvious to a person

of ordinary skill in the art to include the transmitting step runs in cron in the combination system

of Schutzman/Britton as taught by Nielsen. The motivation being to enable the user to maintain

the system which indicates that the backup routine should be run at specified intervals.

5.   *Contact Information*

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Cindy Nguyen whose telephone number is 703-305-4698. The examiner can

normally be reached on M-F: 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet

Metjahic can be reached on 703-308-1436. The fax phone numbers for the organization where this

application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7240

for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should

be directed to the receptionist whose telephone number is 703-305-3900.

FRANTZ COBY
PRIMARY EXAMINER

Cindy Nguyen
May 4, 2005